

REMARKS

This application has been reviewed in light of the Office Action dated December 27, 2006. Claims 1-5, 11-13, 15-18, and 22-27 are pending in this application. Claims 1-5, 11-13, 15-18, 22, 23, 27, and 28 have been amended to define more clearly what Applicants regard as their invention. Claims 1, 11, 13, 22, and 27 are in independent form. Favorable reconsideration is requested.

As an initial matter, Applicants note that Claim 13 has not been examined at all, and Claims 1, 4, 5, 11, and 15-17 have been objected to only for informalities. Accordingly, it is understood that the next Action mailed by the Examiner, if it is not a Notice of Allowance, should be made non-final.

In addition, Applicants are unable to understand the Examiner's comments at page 4 of the Office Action relating to the rejection of Claim 18. In particular, it is not understood why the Examiner states "As to claim 18, the claim has substantially the limitations of claim 27."

Applicants are also unable to understand the Examiner's comments at page 4 of the Office Action relating to the rejection of Claim 3. In particular, Claim 3 depends from one of Claims 1 and 2, and therefore Claim 3 cannot be anticipated by mere reference to its own recitations without referring to its parent claim(s).

For all of these reasons, Applicants submit that the next Action mailed by the Examiner, if it is not a Notice of Allowance, should be made non-final.

Applicants note with appreciation the indication that Claims 2 and 12 would be allowable if rewritten so as not to depend from a rejected claim, and with no change in

scope. These claims have not been so rewritten because their base claims are believed to be allowable.

Claims 1, 4, 5, 11, and 17 were objected to for the reasons given at paragraph 1 of the Office Action. Applicants have complied with the Examiner's request to remove the language noting that the underlining is in the original and is meant to appear in the claim. However, Applicants respectfully request that the Examiner see to it that the Publications branch does not remove the relevant underlining from the claims upon issuance. In the past, Applicants have included such language (i.e. language such as that the Examiner has objected to) within the claims listing, and it has proved effective.

Claims 15 and 16 were objected to for reciting the phrase "as well as," and Applicants have amended Claims 15 and 16 to remove that recitation from those claims.

Withdrawal of the objection to Claims 1, 4, 5, 11, and 15-17 is respectfully requested.

Claim 23 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner states that it is not clear what is meant by the recitation "mean transmission error rate."

Applicants submit that the "mean transmission error rate" refers to a particular parameter for determining the current state of transmission recited in Claim 22. Withdrawal of the rejection of Claim 23 under Section 112, second paragraph is respectfully requested.

Claim 28 was rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Claim 28 has been amended to recite a computer program stored

in a computer-readable medium. Accordingly, withdrawal of the rejection of Claim 28 under Section 101 is respectfully requested.

Claims 3, 18, 22, 27, and 28 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication US 2003/0188252 (*Kim*). Claims 24-26 were rejected under 35 U.S.C. § 103(a) as being obvious from *Kim* in view of U.S. Patent No. 7,051,267 (*Yu*).

Claim 22 is directed to a method of decoding received symbols, including the steps of determining a current state of transmission, selecting one of a plurality of available decoding algorithms in accordance with the determined current state of the transmission, and decoding the received symbols by using the selected decoding algorithm.

One notable feature of Claim 22 is selecting one of a plurality of available decoding algorithms in accordance with a determined current state of the transmission.

Kim, as understood by Applicants, relates to receiving control information transmitted from a transmitter using one of a plurality of slot lengths in a high-speed packet transmission mobile communication system.

Kim discusses the use of a symbol error rate (SER) as an auxiliary metric for detecting an accurate data rate, in addition to an initial metric (CRC check). (See paragraphs 83 and 84 of *Kim*.) Nothing in *Kim*, however, would teach or suggest using this information to select among a plurality of decoding algorithms, as *Kim* only uses one type of decoder (a Viterbi decoder). (See paragraph 90 of *Kim*.)

Applicants have found nothing in *Kim* that would teach or suggest selecting

one of a plurality of available decoding algorithms in accordance with a determined current state of the transmission, as recited in Claim 22.

Accordingly, Claim 22 is seen to be clearly allowable over *Kim*.

Independent Claim 27 recites features which are similar in relevant respects to those discussed above with respect to Claim 22 and therefore is also believed to be patentable over *Kim* for at least the reasons discussed above.

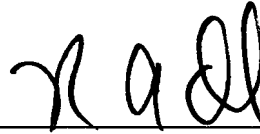
A review of the other art of record has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R A DiPerna', written over a horizontal line.

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